IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 3 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HARSHADKUMAR N DALAL

Versus

COMMISSIONER OF INCOME TAX

Appearance:

MR R.K.PATEL WITH MR.B.D.KARIA FOR MR KC PATEL
for Applicant No. 1
MR AKIL QURESHI FOR MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the assessee, the Income-tax Appellate Tribunal, Ahmedabad Bench 'C' has referred to this Court the following question of law under the provisions of section 256(1) of the Income-tax Act,1961.

> "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the appellant was not entitled to claim interest of Rs.1,68,083/- u/s.37, 80V, 57 or Sec. 67 of the I.T.Act,1961?"

2. We have heard learned Advocate Shri R.K.Patel, appearing for the applicant assessee and learned Advocate Mr.Qureshi, appearing for the Revenue.

3. The learned Advocates have drawn our attention to the fact that a similar question was referred to this Court in I.T.Reference No.141 of 1985 at the instance of an assessee, who was a partner of the applicant assessee.

4. After considering the law laid down by the Supreme Court in the case of Padmavati Jaykrishna Vs. Addl. C.I.T., reported in 166 I.T.R.176 and in the case of East India Pharmaceutical Works Ltd. Vs. Commissioner of Income Tax, reported in 224 I.T.R.627 this Court had answered the question referred to this Court in I.T.Reference No. 141 of 1985 in the affirmative i.e. against the assessee and in favour of the Revenue. As the question of law referred to this Court is similar to the one which was referred to in I.T.Reference No.141 of 1985, following the said judgment, we also answer the question referred to this Court in the affirmative i.e. against the assessee and in favour of the Revenue.

5. The Reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt